THE COMMITTEE ON
WAYS & MEANS

Proposed Treasury Regulations on State Schemes to Circumvent the Tax Cuts & Jobs Act

The *Tax Cuts and Jobs Act* reduced tax rates for families and individuals, nearly doubled the standard deduction, doubled the Child Tax Credit, and drastically minimized the burden of the AMT, providing significant simplification and allowing families to keep more of their hard-earned income to use as they see fit.

For the estimated one out of 10 taxpayers who will continue to itemize – even with the doubled standard deduction – the revamped individual tax code includes a $10,000 limit on the state and local tax (SALT) deduction. Many high-tax states have tried to circumvent this limitation through schemes designed to disguise state taxes as "charitable contributions" for the purpose of getting a federal tax deduction that would not otherwise be available.

The U.S. Treasury Department has released proposed regulations addressing states' efforts to use the charitable contribution as an end-run around the cap on the SALT deduction.

Chairman Brady Statement on Proposed Regulations

"These Treasury regulations rightly close the door on improper tax evasion schemes conjured up by state and local politicians who insist on brutally taxing local families and businesses.

"At the same time, Treasury is clearly seeking to preserve important state tax credit programs that were in place before tax reform that are genuinely designed to serve local charities, many of them educational.

"If these high-tax governors and state legislators are truly concerned about their constituents, they should take the revenue windfall from tax reform and a stronger economy and pass it on to their taxpayers rather than pocket it in their state capitols.

"As for states that have long-standing tax credit programs in place before the **Tax Cuts and Jobs Act,** ***we encourage you to review the proposed regulations and make full use of the comment period. This will be valuable as Treasury continues to work to preserve legitimate charitable programs while preventing tax evasion by some states."***

Overview of Proposed Regulations

- **The state tax credit charitable programs,** including programs that expand educational options, that have long existed in many states **were not set up to provide a federal tax benefit.** The purpose of these state programs is to support important charitable endeavors, not to give donors a federal tax break they would not otherwise be entitled to.

- Following the *Tax Cuts and Jobs Act,* **some high-tax states have set up programs that attempt to convert state tax payments into "charitable contributions"** for the purpose of circumventing federal tax laws. Treasury's proposed regulations are designed to prevent this abuse.

- The proposed regulations generally provide that the charitable contribution deduction for federal tax purposes is measured by reducing the amount of the contribution to one of these programs by the value of the state tax credit received in exchange for the contribution. This reflects the core principle that the charitable contribution deduction covers the excess of a contribution made by a donor over the value of any items received in exchange for the contribution.

- **The proposed regulations issued by Treasury are structured with the aim of reinstating the status of the long-standing state tax credit programs** as they were originally designed. The regulations are intended to return these programs to the status quo before tax reform when participation was not based on significant federal tax implications, thus preserving these programs for their intended purpose.

Comments and Feedback on Proposed Regulations

The regulations are in proposed form, with a 45-day comment period. Comments will be considered and addressed as Treasury develops the final regulations. This comment process is an opportunity to provide feedback so that the final regulations accomplish the objective of preventing abuses while preserving long-standing state programs set up for charitable purposes.

Do not hesitate to reach out to Ways and Means Committee Members or to the Ways and Means Committee Tax Staff for additional information and to provide your feedback on these proposed regulations.

W&M tax staff: Quinton.Brady@mail.house.gov or (202) 225-5522